

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(San Joaquin)

In re the Marriage of MICHAEL G.
CARDOZA and CATHY I. CARDOZA.

MICHAEL G. CARDOZA,

Respondent,

v.

CATHY I. GRIPPANDO,

Appellant.

C059749

(Super. Ct. No. 305296)

Cathy I. Grippando (Wife) appeals from a trial court order denying her motion to enforce the court's judgment. For the reasons stated below, we shall affirm.

Wife has elected to proceed on a clerk's transcript. (Cal. Rules of Court, rule 8.121.) Thus, the appellate record does not include a reporter's transcript of the hearing in this matter. This is referred to as a "judgment roll" appeal. (*Allen v. Toten* (1985) 172 Cal.App.3d 1079, 1082-1083; *Krueger v. Bank of America* (1983) 145 Cal.App.3d 204, 207.)

The limited record we have establishes the following:

In 1997, after a lengthy marriage, the parties separated. The following year, a judgment of dissolution was entered, awarding numerous personal items to Wife. In 2008, Wife filed a motion with the trial court seeking enforcement of the judgment and claiming Michael G. Cardoza (Husband) failed to return all of the items awarded to her.

After hearing from both parties, who appeared in propria persona, the court ruled that Wife's claim was barred by the three-year statute of limitations for return of property detained, found in Code of Civil Procedure section 338. The court also found Wife waited an unreasonable period of time to pursue her rights under the judgment. Wife appeals that order.

DISCUSSION

When an appeal is "on the judgment roll" (*Allen v. Toten, supra*, 172 Cal.App.3d at pp. 1082-1083), we must conclusively presume evidence was presented that is sufficient to support the court's findings. (*Ehrler v. Ehrler* (1981) 126 Cal.App.3d 147, 154.) Our review is limited to determining whether any error "appears on the face of the record." (*National Secretarial Service, Inc. v. Froehlich* (1989) 210 Cal.App.3d 510, 521; Cal. Rules of Court, rule 8.163.)

Here the trial court erred in finding Wife's claim barred by the three-year statute of limitations found at Code of Civil Procedure section 338. Wife was not, as the trial court suggests,

attempting to retrieve property detained by Husband. Rather, she was attempting to enforce the court's judgment. The statute of limitations for enforcement of a judgment is 10 years. (Code Civ. Proc., § 337.5) The judgment in this matter was entered on September 29, 1998. Wife's motion was filed prior to April 15, 2008. Thus, she filed her motion within the statutory period.

The trial court alternately found that Wife's claim was barred because she waited "an unreasonable amount of time" to pursue her rights under the judgment. In other words, that Wife's claim is barred by the equitable doctrine of laches because Wife's delay in enforcing the judgment resulted in prejudice to Husband. (*Lam v. Bureau of Security & Investigative Svcs.* (1995) 34 Cal.App.4th 29, 36 [delay in pursuing a claim is unreasonable if it results in prejudice to the other party].) Without a reporter's transcript, we "'must conclusively presume that the evidence is ample to sustain the [trial court's] findings.'" (*Ehrler v. Ehrler, supra*, 126 Cal.App.3d at p. 154.) That is, the law compels us to assume there was sufficient evidence before the trial court to support its decision that appellant waited an unreasonable period of time to pursue her rights under the judgment. Accordingly, we find no error on the face of this record.

DISPOSITION

The judgment is affirmed. The parties shall bear their own costs on appeal, if any. (Cal. Rules of Court, rule

8.278(a)(5).)

SIMS, Acting P. J.

We concur:

HULL, J.

BUTZ, J.